

SENATE BILL 1970

By Davis L

AN ACT creating a civil service board for the City of Rockwood, and to provide for appointment and removal of members thereof; to prescribe the powers and duties of such board; to authorize the adoption of rules by such board; to provide for classified and unclassified service; to provide means of promotion, suspension, demotion and removal of city employees in the classified service; to authorize the establishment of a pay and hours plan; to provide for penalties for violation hereof; and to repeal all act or parts of acts in conflict with the provisions of this act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is hereby created a system of civil service for the City of Rockwood. A civil service board, hereafter referred to as "the board" to consist of five (5) members is hereby created to administer the said system of civil service. Two (2) members of the board shall be elected by the governing body of the City of Rockwood; two (2) members shall be elected by the employees of the classified service, in a joint election, and the persons receiving a majority of the votes of the employees of the classified service shall become the two (2) members of the board. The persons selected by the governing body of the City of Rockwood and the persons selected by a majority vote of the classified service shall then select one (1) person within ten (10) days after their appointment and selection and the person agreed upon by these four (4) so appointed and selected shall constitute the fifth member of the board. Provided, that if the four (4) members appointed and selected shall fail to agree within ten (10) days after their appointment, then and in that event the governing body of the City of Rockwood shall appoint four (4) citizens to meet and confer with four (4) of the citizens appointed by the

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employees of the classified service. This joint committee of eight (8) shall meet, within ten (10) days, and appoint one (1) person who shall constitute the fifth member of the board.

The five (5) members thus appointed to the board shall serve as board members for a term as appointed, or until their successors are appointed and qualified. One (1) four-year term shall be elected by the employees of the classified service. One (1) four-year term shall be selected by the governing body of the City of Rockwood. One (1) three-year term shall be selected by the governing body of the City of Rockwood. One (1) three-year term shall be elected by the employees of the classified service. These four (4) member shall then select one (1) member for a two-year term. However, if the four (4) members fail to agree, then the same procedure for selecting the fifth member as set out in Section 1, paragraph 1, shall be used for selection of the fifth member. On or before the expiration of the term of each board member, his successor shall be selected in the same manner as the prior selection of the said board member whose term thus expires, to the end that the successor to the member appointed by the town governing body shall likewise be appointed to said body, the successors to the member elected by the classified service shall likewise be elected by said classified service, and the successors to the member appointed by the two (2) other board members shall likewise be appointed by the two (2) other board members.

The members of this board shall receive for their services the sum of fifty dollars (\$50.00) per month, to be paid out of the general fund of the City of Rockwood. No person shall be appointed a member of such board who is not a citizen of the United States, a resident of the City of Rockwood, Tennessee, for at least one (1) year immediately preceding such appointment, and a qualified voter of Roane County. No city employee, elected officials of the City of Rockwood, or convicted felon, may be a member of the board.

Any member of the board may be removed from office by the governing body of the City of Rockwood for incompetency, dereliction of duty, malfeasance in office or upon conviction of any crime involving moral turpitude. Provided, however, that no member of the board shall be removed until charges shall have been preferred in writing, due notice and full public hearing

had before the governing body of the City of Rockwood; provided, further, that such removal shall be for a period of ten (10) days, during which time any member so removed shall have the right of appeal to the chancery court of Roane County, Tennessee, which court shall thereupon proceed to hear and determine such appeal; provided, however, that such hearing shall be confined to the determination of whether the order of removal made by the governing body of the City of Rockwood was or was not made in good faith for proper cause, and no appeal to such court shall be taken except upon such grounds, and the decision of such court shall be final.

The members of the board shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by the act. Three (3) members of this board shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the board under and by virtue of the provisions of the act. Provided, however, that due notice of all meetings shall be given so that all five (5) board members may have an opportunity to be present. Provided, further, that the board shall transact no business and make no decisions until and except while all five (5) board members shall have taken office and remain qualified to act.

SECTION 2. The provisions of this act shall apply to all employee personnel working on a paid full-time basis. Specifically, exempt employees shall be:

- (a) department heads;
- (b) city recorder;
- (c) all elected officials and persons appointed to fill vacancies in elective offices;
- (d) the chief administrative officer--the mayor;
- (e) all members of appointive boards, commissions, or committees;
- (f) city attorney and assistant city attorneys;
- (g) consultants, advisors and counsel rendering temporary professional service;
- (h) independent contractors;

(i) emergency employees who are hired to meet the immediate requirements of an emergency condition such as extraordinary fire, flood, or earthquake which threatens life or property;

(j) seasonal employees who are employed by the city;

(k) persons rendering part-time service paid by the hour or day; and

(l) volunteer personnel, such as volunteer firemen, and all other personnel appointed to serve without compensation.

All persons as shown as covered shall be known as the classified service. All other city employees shall be known as the unclassified service.

SECTION 3. All future appointments to and promotions in said departments, except as otherwise provided in this act shall be made on the basis of seniority, fitness and efficiency, which shall be determined by the following method:

Subject to the other standards set forth in this act, the department heads shall meet with the board as soon after the enactment of this act as may be possible and shall give assistance to the board in drawing up minimum standards of mental ability, physical conditions, experience, education, personality, and specified training for each job classification in their respective departments. Such standards, when set, shall remain in effect until altered by action of the board. After the enunciation of said standards, a roster shall be kept by the board of all full-time personnel in the classified service indicating what job classifications within their respective departments such personnel are eligible to fill. A roster shall also be kept on all applicants to become members of the classified service with appropriate indication of what job classifications such applicants are eligible to fill.

After enunciation of said standards, no vacancy shall be filled except by a person on the roster of persons having the requisite qualifications to fill such vacancy.

If any vacancy shall occur within any branch of the classified service, the vacancy shall be offered first to that member of the said branch qualified on the roster

who shall have the greatest seniority and so on in descending order. No person shall be reinstated in, or transferred, suspended or discharged from any place, position or employment in the classified service contrary to the provisions of this act.

SECTION 4. The board shall organize by forthwith electing one (1) of its members as chairman and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties.

The board shall appoint a secretary who shall keep its records, preserve all reports made to it, superintend and keep a record of all examinations and perform such other duties as the board may prescribe.

It shall be the duty of the board:

(a) To make suitable rules and regulations not inconsistent with the provisions of this act. Such rules and regulations shall provide in detail the manner in which examinations may be held and appointments, promotions, transfers, demotions, reinstatements, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration; such rules and regulations shall include the methods used in determining the standard for each job classification in the classified service. These rules and regulations may be changed from time to time by the board and shall be printed or reproduced for free public distribution.

(b) The rules and regulations shall include provisions so that seniority may not be lost by any person holding a position in the classified service if such person leaves the classified service to enter the military service of the United States, provided that such person returns to the classified service within six (6) months following his honorable discharge from such service. In such cases the period of military service shall be included in the period of seniority of such person.

(c) The board shall make investigations and report upon all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations

prescribed hereunder, inspect all institutions and employment affected by this act, and ascertain whether the act and all such rules and regulations are being obeyed. Such investigations shall be made by the board on its own motion and must also be made on petition of any citizen duly verified stating that irregularities or abuses exist, or setting forth in writing the necessity for such investigation. In the course of such investigation, the board shall have the power to administer oaths, subpoena and require the attendance of witnesses, and require the production of books, papers, documents and accounts appertaining to the investigation. The failure upon the part of any person to comply with such subpoena or demand shall be a violation of this act and punishable as such. The board shall have the authority to refer any complaint, before or after investigation, to the department head for solution.

(d) All hearings and investigations before the board shall be governed by this act and by the rules of practice and procedure to be adopted by the board. The board or its designated hearing officer, shall not be bound by technical rules of evidence. No formality in any procedure or hearing shall invalidate any order, decision, rule or regulation made or approved by the board; provided, however, that no decision shall be binding unless concurred in by at least three (3) of the board members.

(e) To hear and determine appeals or complaints relative to the allocation of positions, the determination of job changes, the furnishing of rosters and the position of members of the classified service, and of applicants on such rosters, and such other matters relating to the administration of this act as may be referred to the board.

(f) To prepare a standard schedule of pay and of hours based generally upon presently applicable salary rates and hours worked for each class of positions in the classified service. Such pay plan shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position. In increasing or decreasing items in budgets, the governing body of the City of Rockwood shall not increase or decrease any individual salary item, but shall act solely with respect to

classes of positions as established in the classification and pay plan. In no event shall the said governing body reduce the salary of a class below the minimum or raise it above the maximum salary established by the pay plan except by amendment of the same. Provided, that nothing in this act shall limit the hours to be worked in event of riot, dangerous fire, or other bona fide emergency.

(g) To see that the job classification, the standard for filling said classifications and the roster of eligible appointees for each classification are kept continuously up-to-date, and posted in the respective departments of the classified service. Said rosters shall show name, rank and number in their proper order by reason of seniority established by continuous service in the respective departments. Terms of leaves of absence granted by the board hereby created upon recommendation of the head of each department shall not forfeit the rights of the member granted leave under this act nor be charged against such member in his order of seniority.

(h) To make provisions that employees laid off because of curtailment of expenditures, reduction in force, and for like causes, shall be the last person, or persons, including probationers, that have been appointed to the respective department of the classified service. Rules and regulations shall provide that persons so laid off shall be reinstated before any new appointments to said department shall be made.

(i) To keep the appointing authority notified of the person highest on each eligible list for appointment to each vacancy that may occur.

(j) To keep such records as may be necessary for the proper administration of this act.

SECTION 5. All persons holding positions in the classified service, upon the effective date of this act, who shall have served in such position for a period of at least ninety (90) days previous thereto, are hereby inducted into civil service in the office, position or employment which such persons respectively held at the time of the enactment of this act, subject, however,

to removal, demotion, or suspension upon the same terms as any other person inducted permanently into civil service following the effective date of this act.

SECTION 6.

(a) An applicant for a civil service position of any kind under the classified service must be a citizen of the United States, who can read and write the English language.

(b) Every applicant for a position in the classified service must, in addition to such minimum standards as are stated by the board, also be of ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the board may deem advisable.

SECTION 7. The tenure of everyone holding office, place, position, or employment under the provisions of this act shall be for and only during good behavior. Any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons, but for no other reasons:

(a) Dishonesty, intemperance, immoral conduct, insubordination, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to conduct himself properly; or any willful violation of the provisions of this act or the rules and regulations to be adopted hereunder.

(b) Conviction of a felony, or a misdemeanor involving moral turpitude, or a misdemeanor reflecting upon ability to perform public service or one for which a jail sentence is or may be imposed.

(c) Any other act or failure to act which, in the judgment of the board, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the classified service.

SECTION 8. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under the provisions of this act shall be removed,

suspended or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation shall be served upon the accused, and a duplicate filed with the board. The department head may suspend an employee of the department pending the confirmation of the suspension by the regular appointing power under this act which must be within ten (10) days. Any person so removed, suspended or discharged may within twenty (20) days from the time of his removal, suspension or discharge file with the board a written demand for an investigation, whereupon the board shall conduct such investigation. The investigation shall be confined to the determination of whether such removal, suspension or discharge was or was not made for political reasons and was or was not made in good faith for cause. After such investigation, the board may affirm the removal, or if it shall find that the removal or suspension was made for political reasons, or was not made in good faith for cause, shall order the immediate reinstatement or re-employment of such person in the office, place, position or employment from which such person was removed, suspended or discharged, which reinstatement shall, if the board so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension or discharge. The board, in its discretion, in lieu of affirming or reversing the removal, suspension or discharge, may modify the order by directing a suspension without pay for a given period and subsequent restoration of duty, grade or pay; and the findings of the board shall be certified in writing to the appointing power and shall be forthwith enforced by such authority.

All investigations made by the board pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel and presenting his defense. At any such hearing the testimony of all witnesses shall be taken in writing and a record made of all proceedings. From any order adverse to the accused, the latter may appeal to the chancery court of Roane County, Tennessee. Such appeal shall be taken by serving the board, within ten (10) days after the entry of such order, a written notice of

appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the board affecting or relating to such order be filed by the board in such court. The board shall within twenty (20) days after the filing of such notice, make, certify and file such transcript with such court. The chancery court shall thereupon proceed to hear and determine such appeal; provided, however, that such hearing shall be confined to the determination of whether the order of removal, discharge or suspension made by the board was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground, or grounds, and the decision of the court shall be final.

SECTION 9. It shall be the duty of all officers and employees of the City of Rockwood to aid in all proper ways in carrying out the provisions of this act, and such rules and regulations as may, from time to time be prescribed by the board thereunder and to afford the board, its members and employees, all reasonable facilities and assistance in the inspection of all books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, papers, documents and accounts relevant to the duties of the board, and to attend and testify whenever required so to do by the board or any member thereof.

SECTION 10. Whenever a position in the classified service becomes vacant, the governing body of the City of Rockwood, or the board in charge of the separate departments, shall make requisition upon the board for the name and address of a person eligible for appointment thereof. The board shall certify the name of the person highest on the eligible list willing to accept employment, except in cases where the person who would be certified is not at the time of certification employed in the classified service in which cases the board shall certify the two (2) names highest on the appropriate list, and the governing body, or board, shall appoint one (1) of the persons so certified.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the governing body, or board, shall forthwith appoint the person, or, in the proper case, from among the persons so certified, to said position.

The governing body, or board, of the city, as to department heads, and the chiefs of the respective departments with the approval of the governing body, or board, as to all other personnel shall, notwithstanding any other provisions of this act, upon proper certification by the board of the eligibility of an applicant for any position in the classified service, be empowered to appoint such person to said position for a period of six (6) months, during which time such applicant shall be on probation and subject to removal for just cause shown and any time during said six-month period; or if the governing body, or board, of the City of Rockwood shall in its discretion deem such person on probation unfit and unsatisfactory for such position, then and in that event such person on probation may be dismissed or transferred to another classification on probation, without prejudice to such applicant. Whatever action may be taken by such governing body, or board, with respect to such applicant or probationer shall not be reviewable by the board. In the event of dismissal of such applicant or probationer for reasons satisfactory to the governing body, or board, of the City of Rockwood then and in that event the board shall certify the name of the next person, or in the proper case persons, on the eligible list as the same shall appear from the records of the board.

SECTION 11. Leave of absence, without pay, may be granted by the board upon the recommendation of the department head, and the board shall give notice of such leave of absence to the governing body, or board. All temporary employment caused by leaves of absence shall be made from the eligible list of classified civil service of the department concerned.

SECTION 12. No board member or any other person shall, by himself/herself, or in cooperation with one or more persons, defeat or deceive any person in respect of his/her right of examination or registration according to the rules and regulations of this act or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this act or aid in so doing, or make any false representation concerning the same or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or

chances of any person so examined, registered or certified, or persuade any other person, or permit or aid in any manner any person to impersonate any other person, in connection with any examination or registration or application or request to be examined or registered.

SECTION 13.

(a) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to the employment in the classified service because of his political or religious opinions, but all employees must take an oath to support the Constitution of the United States.

(b) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.

(c) No person shall use or promise to use, directly or indirectly, any political or official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service or an increase in pay or other advantages in employment in any such position either for the purpose of influencing the vote of political action of any person, or for any consideration, or otherwise.

(d) It shall be the duty of the board to supervise the execution of the foregoing civil service provisions of this act, and the rules made thereunder, and it shall be the duty of all persons under the provisions of this act to comply with such rules and to aid in their endorsement.

SECTION 14. The board shall be authorized to employ such clerical or administrative help as is necessary in carrying out the duties assigned to it, and shall also be authorized to retain legal counsel and engage actuarial experts to the extent necessary in carrying out the functions assigned to the board.

SECTION 15. The failure on the part of the board, or any member thereof or on the part of the governing body, or board, of the City of Rockwood, or any member thereof, to comply

with the terms of this act shall be considered a violation of this act and shall be punishable as such.

SECTION 16. The governing body of the City of Rockwood shall provide the board with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the board and shall either provide directly or provide the funds for the payment of such necessary clerical, administrative, actuarial and legal assistance as may be employed by the board under the provision of Section 14 of this act; and the failure on the part of the governing body to do so shall be considered a violation of the act and shall be punishable as such.

SECTION 17. The governing body of the City of Rockwood shall have authority to appropriate from the general funds of said city a sum sufficient to carry out the purposes of this act, and shall make such appropriation. Within thirty (30) days after the effective date of this act, it shall be the duty of the governing body of the City of Rockwood, subject to the provisions of this act, to appoint and create the board, as provided in Section 1 hereof, and the failure upon the part of the governing body, or any member of it to do so, shall be deemed a violation of this act and shall be punishable as such.

SECTION 18. It shall be the duty of the board appointed subject to the provisions of this act to organize immediately and to see that the provisions thereof are carried into effect, and to make suitable rules and regulations to effect said purposes; and the failure upon the part of said board, or any individual member thereof so to do, shall be deemed a violation of this act and shall be punishable as such.

SECTION 19. Any person who shall intentionally violate any of the provisions of this act shall be liable for a civil penalty of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

SECTION 20. All laws or parts of laws in conflict with this act be and the same are hereby repealed.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. All departments of the City of Rockwood whether governed by the governing body, or separate board, shall cause a vote to be taken by the employees of each department after this act becomes law, and each department receiving a majority vote in the affirmative shall adopt the civil service system created pursuant to this act as its own and be recorded in the minutes of the governing body, or the board. Departments not receiving a majority of affirmative votes shall continue to operate under the rules or ordinance as previously established by the governing body or board.

The council shall request that the mayor notify the boards that a vote be taken by employees to adopt or not adopt the civil service system created pursuant to this act. This vote will be taken after this act becomes law. Any governing body, or board, will continue to function organizationally prior to the effective date of this act.

SECTION 23. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Rockwood. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Rockwood and certified to the secretary of state.

SECTION 24. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 23.

- AN ACT creating a civil service board for the City of Rockwood, and to provide for appointment and removal of members thereof; to prescribe the powers and duties of such board; to authorize the adoption of rules by such board; to provide for classified and unclassified service; to provide means of promotion, suspension, demotion and removal of city employees in the classified service; to authorize the establishment of a pay and hours plan; to provide for penalties for violation hereof; and to repeal all act or parts of acts in conflict with the provisions of this act.
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